

2012 -- H 7301

=====
LC00932
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

—————
A N A C T

RELATING TO ALCOHOLIC BEVERAGES -- MANUFACTURING AND WHOLESALE
LICENSES

Introduced By: Representatives Nunes, Tanzi, Marcello, Hearn, and Keable

Date Introduced: February 01, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 3-6-1.1 and 3-6-1.2 of the General Laws in Chapter 3-6 entitled
2 "Manufacturing and Wholesale Licenses" are hereby amended to read as follows:

3 **3-6-1.1. Farmer-winery licenses -- Fee. --** (a) For the purpose of encouraging the
4 development of domestic vineyards, the department shall issue a farmer-winery license to any
5 applicant of the state and to applying partnerships and to applying corporations organized under
6 the laws of any other state of the United States and admitted to do business in this state.

7 (b) A winegrower may operate a farmer's winery under any conditions the department
8 may prescribe by regulation.

9 (c) A winegrower may import fruit, flowers, herbs, and vegetables to produce not more
10 than ~~seven thousand five hundred (7500)~~ fifteen thousand (15,000) gallons of wine during his or
11 her first ~~year~~ two (2) years of operation, not more than ~~five thousand (5000)~~ ten thousand
12 (10,000) gallons during his or her ~~second year~~ third or fourth years of operation, not more than
13 ~~two thousand five hundred (2500)~~ five thousand (5,000) gallons during his or her ~~third year~~ fifth
14 and sixth years of operation and not more than ~~one thousand (1000)~~ two thousand (2,000) gallons
15 per year thereafter.

16 (d) If a winegrower suffers crop failure in his or her vineyard in a particular year to the
17 extent that the fruit yield from his or her vineyard that year is at least twenty-five percent (25%)
18 below the average yield for the previous two (2) years, the winegrower may import fruit into the

1 state during that year in an amount equal to the difference between the current year's yield and the
2 average for the previous two (2) years. A winegrower shall not import unfermented juice, wine or
3 alcohol into the state.

4 (e) A winegrower may sell wine or winery products under his or her label and fermented
5 by him or her or another winegrower licensed by the state. He or she may sell wine or winery
6 products:

7 (1) At wholesale to any person holding a valid license to manufacture alcoholic
8 beverages;

9 (2) At wholesale to any person holding a valid wholesaler's and importer's license under
10 sections 3-6-9 -- 3-6-11;

11 (3) At wholesale to any person holding a valid farmer-winery license under this section;

12 (4) At retail by the bottle to consumers for consumption off the winery premises;
13 provided, however a winegrower shall not sell wine at retail for delivery off the site of the winery
14 premises in Rhode Island directly to Rhode Island residents, except in the manner provided for
15 like sales and shipment in section 3-4-8.

16 (5) At wholesale to any person in any state or territory in which the importation and sale
17 of wine is not prohibited by law;

18 (6) At wholesale to any person in any foreign country;

19 (7) At wholesale to liquor dealers holding a valid license under the provisions of title 3;

20 (8) At wholesale to restaurants holding a valid license under the provisions of title 3; ~~and~~

21 (9) At retail by the bottle or by the glass for consumption on the winery premises; ~~and~~

22 (10) At retail by the bottle at a farmer's market.

23 (f) A winegrower may not sell at retail to consumers any wine or winery product not
24 fermented in the state and sold under the brand name of the winery.

25 (g) A winegrower may serve complimentary samples of wine produced by the winery
26 where the wine is fermented in the state and sold under the winery brand name.

27 (h) All wines sold by a licensee shall be sold under any conditions and with any labels or
28 other marks to identify the producer as the department may prescribe.

29 (i) Every applicant for a farmer-winery license shall, at the time of filing an application,
30 pay a license fee based on a reasonable estimate of the amount of wine to be produced during the
31 year covered by the license. Persons holding farmer-winery licenses shall report annually at the
32 end of the year covered by the license the amount of wine produced during that year. If the total
33 amount of wine produced during the year is less than the amount permitted by the fee already
34 paid, the state shall reimburse the licensee for whatever fee was paid in excess. If the total amount

1 of wine produced during the year exceeds the amount permitted by the fee already paid, the
2 licensee shall pay whatever additional fee is owing.

3 **3-6-1.2. Brewpub manufacturer's license.** -- (a) A brewpub manufacturer's license shall
4 authorize the holder to establish and operate a brewpub within this state. The brewpub
5 manufacturer's license shall authorize the retail sale of the beverages manufactured on the
6 location for consumption on the premises. The license shall not authorize the retail sale of
7 beverages from any location other than the location set forth in the license. A brewpub may sell at
8 retail alcoholic beverages produced on the premises by the half-gallon bottle known as a
9 "growler" to consumers for off the premises consumption to be sold pursuant to the laws
10 governing retail Class A establishments.

11 (b) The license shall also authorize the sale at wholesale at the licensed place by the
12 manufacturer of the product of his or her licensed plant as well as beverages produced for the
13 brewpub and sold under the brewpub's name to a holder of a wholesaler's license and the
14 transportation and delivery from the place of sale to the licensed wholesaler or to a common
15 carrier for that delivery.

16 (c) The brewpub manufacturer's license further authorizes the sale of beverages
17 manufactured on the premises to any person holding a valid wholesaler's and importer's license
18 under section 3-6-9 or 3-6-11.

19 (d) The brewpub manufacturer's license shall further authorize the sale of beverages at
20 any farmer's market.

21 ~~(d)~~(e) The annual fee for the license is one thousand dollars (\$1,000) for a brewpub
22 producing more than fifty thousand (50,000) gallons per year and five hundred dollars (\$500) per
23 year for a brewpub producing less than fifty thousand (50,000) gallons per year. The annual fee is
24 prorated to the year ending December 1 in every calendar year and paid to the division of taxation
25 and turned over to the general treasurer for the use of the state.

26 SECTION 2. Chapter 3-6 of the General Laws entitled "Manufacturing and Wholesale
27 Licenses" is hereby amended by adding thereto the following section:

28 **3-6-1.3. Farmer-brewery licenses.** -- (a) For the purpose of encouraging the
29 development of domestic farms, the department shall issue a farmer-brewery license to any
30 applicant who is both a citizen and resident of the state and to applying partnerships composed
31 solely of such individuals, and to applying corporations or other types of entities organized under
32 the laws of the state or organized under the laws of any other state of the United States and
33 admitted to do business in the state unless:

34 (1) Such person does not comply with the application procedures required by the

1 department; or

2 (2) The department determines that such person is not of responsible character; or

3 (3) A place of worship or school located within five hundred feet (500') of the brewery
4 premises has objected to issuance of the license; or

5 (4) The department determines that the applicant retains or owns an interest, directly or
6 indirectly, in more than one business licensed hereunder; or

7 (5) The applicant has not furnished the requisite license fee or bond; or

8 (6) The department determines that the owners, or corporate officials of the applicant do
9 not meet the foregoing requirements, or that the manager or agent intended to conduct the farmer-
10 brewery business on the applicant's behalf does not meet such requirements, or that such owners
11 or officials, agent or manager remain undisclosed.

12 (b) The department may, on its own motion, and shall upon the written request of any
13 applicant who has been refused a farmer-brewery license or has been refused transfer or renewal
14 of such a license, hold an evidentiary hearing, notice of which shall be mailed to the applicant at
15 the address given in the application. The department shall present its reasons for refusing
16 issuance. The applicant may appear in person or by counsel, may cross-examine witnesses and
17 may present evidence. The hearing shall be stenographically or sound recorded. If the hearing is
18 conducted by an examiner, the examiner shall report on the hearing to the department. The
19 department shall decide within thirty (30) days of the completion of the hearing whether to issue
20 the farmer-brewery license or grant the transfer or renewal. If the department refuses the license,
21 transfer or renewal, notice in writing of the refusal shall be mailed to the applicant. In all such
22 cases, the department shall keep on file a statement in the form of an opinion of the reasons for
23 the refusal, and shall furnish a copy thereof to the applicant.

24 (c) Any applicant who has appeared before the department at such a hearing and who has
25 been refused a farmer-brewery license or the transfer or renewal of such a license may appeal to
26 the superior court of the county where the applicant resides or has its principal place of business
27 within the state.

28 (d) Every applicant for an original brewery license or for a transfer of such a license
29 shall, within seven (7) days after filing an application with the department, send written notice of
30 his application by registered mail, return receipt requested, to:

31 (1) Each school which offers instruction and training to children of compulsory school
32 age which is located within a radius of five hundred feet (500') from the premises on which the
33 brewery is to be operated; and

34 (2) Each place of worship is located within a radius of five hundred feet (500') from such

1 premises.

2 The notice shall also state that the place of worship or school has the right to object to the
3 issuance or transfer of the brewery license. If the authorities in charge of any such school or place
4 of worship complain to the commission in writing that a brewery license has been issued or
5 transferred without the mailing of the requisite notice, and that they object to such issuance or
6 transfer, the department shall hold a hearing to determine whether the requisite notice was mailed.
7 If after a hearing the department determines that notice was not mailed as required, then the
8 department shall cancel the farmer-brewery license unless such school or place of worship had
9 actual notice, prior to issuance or transfer, of the application and of the right to object, or such
10 school or department did not complain after actual notification of the application and of the right
11 to object.

12 Any farmer-brewer aggrieved by the cancellation of its license or any school or place of
13 worship aggrieved by the department's refusal to cancel such a license may appeal as provided
14 herein.

15 (e) A farmer-brewer may operate a farmer's brewery under such conditions as the
16 department may prescribe by regulation.

17 (f) A farmer-brewer may import malt, cereal grains fermentable, sugars and hops, but
18 may not import malt beverages or alcohol into the state.

19 (g) A farmer-brewer may sell malt beverages or malt beverage products:

20 (1) At wholesale to any person holding a valid wholesaler's license to manufacture
21 alcoholic beverages;

22 (2) At wholesale to any person holding a valid wholesaler's and importer's license;

23 (3) At wholesale to any person holding a valid farmer-brewer license under this section;

24 (4) At wholesale in kegs, casks, barrels or bottles to any person holding a license to sell
25 and, for the sole purpose of resale in containers in which the product was delivered, to any person
26 holding a license to sell; provided that the total annual sales to such licensees shall not exceed
27 fifty thousand (50,000) gallons;

28 (5) At wholesale to churches and religious societies, educational institutions, incorporated
29 hospitals, homes for the aged or manufactures of food products;

30 (6) At retail by the bottle to consumers for consumption off the brewery premises;

31 (7) At wholesale to any person in any state in which the importation and sale of malt
32 beverages is not prohibited by law;

33 (8) At wholesale to any person in any foreign country; and

34 (9) At retail at any farmer's market.

1 (h) A farmer-brewer may not sell at retail to consumers any malt beverage or malt
2 beverage product not produced by the brewery or produced for the brewery and sold under the
3 brewery brand name.

4 (i) A farmer-brewer may be licensed by a local licensing authority to sell malt beverages
5 for consumption on the brewery premises in accordance with such regulations as the department
6 may prescribe.

7 (j) All malt beverages sold by a licensee hereunder shall be sold and delivered in such
8 manner and under such conditions and with such labels or other marks to identify the producer as
9 the department may prescribe.

10 (k) Every farmer-brewer under this section shall keep such records as the department may
11 prescribe, and shall file with the department, whenever and as often as it may require copies of
12 such records. The department shall at all times, through its designated officers or agents, have
13 access to all books, records or other documents of every licensed farmer-brewer relating to the
14 licensee's brewery business.

15 (l) The annual fee for the license is one thousand dollars (\$1,000) for a farmer-brewer
16 producing more than fifty thousand (50,000) gallons per year and five hundred dollars (\$500) per
17 year for a farmer-brewer producing less than fifty thousand (50,000) gallons per year. The annual
18 fee is prorated to the year ending December 1 in every calendar year and paid to the division of
19 taxation to be turned over to the general treasurer for the general fund.

20 SECTION 3. This act shall take effect upon passage.

=====
LC00932
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO ALCOHOLIC BEVERAGES -- MANUFACTURING AND WHOLESALE
LICENSES

1 This act would allow brewers and winegrowers to sell their products at farmer's markets
2 and would also increase the amounts of ingredients that may imported to produce double the
3 amounts of wine currently allowable during the first years of operation. This act would also
4 establish a farmer-brewer license.

5 This act would take effect upon passage.

=====
LC00932
=====